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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/573,287

03/23/2006

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1761-0048

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04/13/2009

EXAMINER

HAMO, PATRICK

ART UNIT

PAPER NUMBER

3746

MAIL DATE

DELIVERY MODE

04/13/2009

PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No. 10/573,287	Applicant(s) MICHELS ET AL.	
	Examiner PATRICK HAMO	Art Unit 3746	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 23 March 2006.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-15 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-15 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 23 March 2006 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☒ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date. _____ |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| Paper No(s)/Mail Date <u>23 Mar 06</u> . | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 112

The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

Claims 1-15 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

In claim 1, the term “dimensionally stable” is unclear. This renders the limitations that “the housing is constituted by a dimensionally stable support frame” and that “the tubing holder is fixed to the support frame to be dimensionally stable” in claim 1 indefinite without a disclosure in the specification as to the meaning of the term. If it simply means that the support frame is stable in that it resists being broken or knocked down, then the modifier dimensionally is unnecessary and its inclusion confuses the metes and bounds of the claim.

In claim 1 the phrase “in the sense of a snap-on connection” is unclear. It is unclear if it is forming a snap-on connection, or attached to the connection or if the connection is even being positively claimed.

In claims 3 and 13, the term “coaxially enlases” is unclear. As far as can be understood from the drawings, the rotor and the tubing bed body member overlap in an axial direction, but are not intertwined or otherwise connected that would normally be deemed “enlacing.” In regard to claim 13, the limitation that the tubing bed body member “coaxially enlases the rotor by an amount of 360 degrees divided by the

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number of conveyor rollers" is particularly perplexing because a coaxial enlacement would be expected to be measured as an axial length, not in radial degrees. For purposes of claim 3, axially overlapping is interpreted as coaxially enlacing.

Regarding claim 14, the phrase "preferably" renders the claim indefinite because it is unclear whether the limitation(s) following the phrase are part of the claimed invention.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1-3, 5, 8 and 12-14 rejected under 35 U.S.C. 102(b) as being anticipated by Stenner, US 4,631,008.

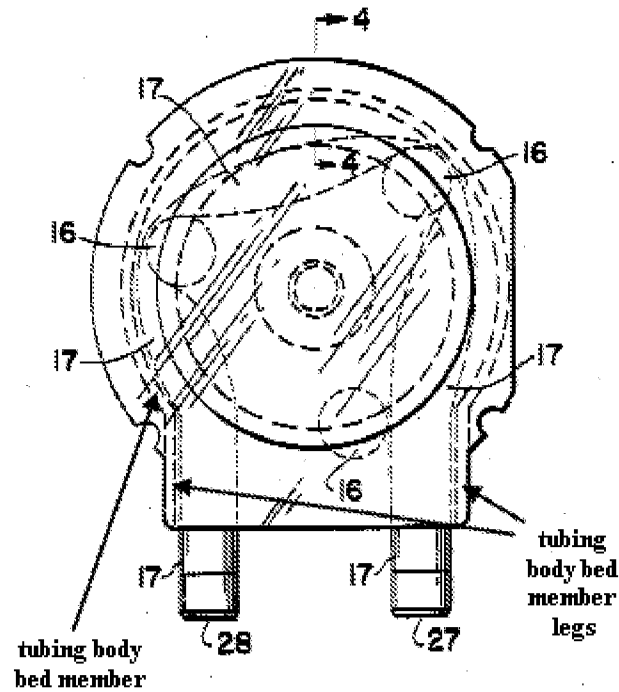
Stenner disclose a peristaltic pump with a rotor 16 with multiple rollers received in a housing 15, 18, housing 15 acting as tubing holder for tube 17 which is squeezed by the rollers, cover 18 snap-fitting onto the housing 15 (see fig. 4) to fix the two to each other stably.

In regard to claim 2, housing 15 includes what may be reasonably construed as tubing bed body member having an inner side (upper portion of dotted portion in fig. 1, reproduced and annotated on the following page) and two legs at its end , the entire housing made of an elastically resilient material (col. 2, l. 65 - col. 3, l. 1).

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In regard to claims 3 and 13, the tubing body bed member axially overlaps with the rotor.

In regard to claim 5, the tubing body bed member is essentially an omega shape.



In regard to claim 8, the tubing body bed member is stable and the fixation to the cover 18 is supported by the action of the squeezing of the tubing. This can be reasoned as the entire construction is stable while the tube is being squeezed, such that the forces and actions resulting from the squeezing are part of the balanced forces during stable operation.

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In regard to claim 12, the tubing enters and exits substantially tangentially (see fig. 1 above).

In regard to claim 14, the inlet and outlet ports are provided approximately 240 degrees apart.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 4, 9-11 and 15 are rejected under 35 U.S.C. 103(a) as being unpatentable over Stenner in view of Davis et al., US 7,118,203.

Stenner discloses all of the limitations substantially as claimed except for a plurality of ribs and recesses for a plurality of tubing sections. However, Davis teaches a peristaltic pump substantially similar to that of Stenner in that there is an omega-shaped tubing bed body member 142 with smooth concave-to convex transitions is received in a housing 111 mating with a rotor 90 with multiple rotors 92. In addition, Davis teaches a plurality of tubes being pumped at once, and to accommodate the multiple tubes, the tubing body bed member is equipped with ribs 142 and recesses 150, each recess receiving an individual tube (see figs. 8 and 9), and each barrel-like roller 92 as part of rotor 90 extends axially over the recesses. It would have been obvious to one of ordinary skill in the art to have modified the single tube peristaltic

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pump of Stenner with the multiple tube pumping system of Davis to provide for increased pumping capacity.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to PATRICK HAMO whose telephone number is (571)272-3492. The examiner can normally be reached on M-F 8:30-5.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Devon Kramer can be reached on 571-272-7118. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Charles G Freay/
Primary Examiner, Art Unit 3746

/Patrick Hamo/
Patent Examiner, AU 3746